

**— EXHIBIT 4 —**

ORIGINAL

ABANTE ROOTER AND PLUMBING v  
ALARM.COM INCORPORATED

ANNE FERGUSON, CORPORATE  
October 27, 2016

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3 - - - - -X  
4 ABANTE ROOTER AND :  
5 PLUMBING, INC., GEORGE :  
6 ROSS MANESIOTIS, MARK : No. 3:15-cv-06314-YGR  
7 HANKINS, and PHILIP J. :  
8 CHARVAT, individually :  
9 and on behalf of all :  
10 others similarly :  
11 situated, :  
12 Plaintiffs, :  
13 v. :  
14 ALARM.COM INCORPORATED, :  
15 AND ALARM.COM HOLDINGS, :  
16 INC., :  
17 Defendants. :  
18 - - - - -X  
19 Deposition of ALARM.COM INCORPORATED,  
20 By and through its Designated Representative  
21 ANNE FERGUSON  
22 Washington, DC  
23 Thursday, October 27, 2016  
24 9:09 a.m.

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1 management services.

2 Q And then you mentioned manufacturing partners.  
3 What do partners do?

4 A They manufacture the security panels that  
5 would actually go on the wall in the home or business.  
6 We also have partners who manufacture video cameras,  
7 thermostats, locks, lighting and garage door openers.

8 Q How many manufacturers does Alarm.Com  
9 currently work with with regard to the security systems?

10 A 15 to 20.

11 Q And then you mentioned distributing partners?

12 A Mm-hmm.

13 Q And what do those folks do?

14 A Distributors are, have facilities based  
15 throughout North America where our security service  
16 providers purchase the hardware that they would utilize  
17 in an installation.

18 Q And so as the senior director of partner  
19 marketing what is your -- what's your sort of job  
20 description day to day in a very general level? Then  
21 we'll get more specific.

22 A I'm responsible for ensuring that our various  
23 partners and service providers have the information and  
24 resources needed to sell and retain Alarm.Com's

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1 subscribers. I'm also responsible for our events as an  
2 organization as well, so trade events that we attend.

3 Q And it sounds like you have a team of people?

4 A I do.

5 Q How big is that team currently?

6 A Twelve people.

7 Q Okay.

8 A Twelve heads, 11 roles filled. Right now one  
9 is an open rack.

10 Q Are you familiar with a company called  
11 Alliance?

12 A Yes.

13 Q Where does Alliance fit in into the three  
14 buckets of partners you just talked about, if at all?

15 MR. JACOBVITZ: Objection. Form. What  
16 do you mean by fit in?

17 Q You're familiar with Alliance.Com?

18 A Not --

19 Q That company?

20 A Alliance Security.

21 Q Alliance Security, sorry. Are they a service  
22 provider?

23 A They are a service provider.

24 Q Does Alarm.Com currently work with Alliance?



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1 A Yes.

2 Q Do you directly interact with Alliance in any  
3 way?

4 A Yes.

5 Q Okay. How do you interact with Alliance?

6 A With their head of marketing.

7 Q And who is their head of marketing?

8 A Jake Murray.

9 Q Can you give me some examples of the way that  
10 you interact with Mr. Murray?

11 A Two recent examples would be communicating  
12 with him regarding an Alarm.Com event, a partner event  
13 that we had recently, inviting him to it, making sure  
14 that he had the information that he needed about the  
15 event and the logistics for it; also communicate with  
16 him and members of my team communicate with him  
17 regarding their usage of marketing development funds  
18 that are made available to them.

19 Q Is your team responsible for developing  
20 materials and collateral for the service providers?

21 A Yes.

22 Q Is your team responsible for any training that  
23 is done of the service providers?

24 A We do assist with training.

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1 complaint came in, and what was the nature of the  
2 complaint; do you recall?

3 A That a service provider was contacting the  
4 consumer with greater frequency than the consumer  
5 preferred.

6 Q Is there any, any indication that they were on  
7 the Do Not Call list or was it just the frequency of  
8 calls they were complaining about?

9 A Just the frequency of calls.

10 Q Any indication whether they had been called on  
11 their cell phone?

12 A No, no indication.

13 Q No indication, right, one way or the other.  
14 And so it was determined that the lead had been provided  
15 through the CLS; right?

16 A Correct.

17 Q Tell me what that means.

18 A Alarm.Com has a customer lead service where  
19 consumers can enter a lead funnel through the Alarm.Com  
20 public site. As part of that process if the consumer  
21 goes all the way through the funnel, they explicitly  
22 indicate their consent to be contacted via the methods  
23 that they submit to, that they submit through that form.

24 Q And so how were you or how was the company

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1 able to determine that this consumer had come to the  
2 company through the CLS?

3 A We store that information when it is input.

4 Q And where is that information stored?

5 A Our data warehouse.

6 Q I had to ask even though I know the answer.  
7 And with regard to the information that -- well, let's  
8 just talk about that particular consumer. You go to the  
9 data warehouse, you want to see, you know, did this  
10 person come in through the CLS or was a lead generated  
11 through the CLS. What sort of information do you see in  
12 the data warehouse about that particular consumer?

13 A You would see information that the consumer  
14 input themselves through the form. You would also see  
15 an indication of which service providers the individual  
16 had selected that they wanted to be connected with. If  
17 the lead had been converted to a subscriber, that would  
18 be noted as well.

19 Q And so if the lead is generated through the  
20 CLS and the consumer has selected more than one service  
21 provider, what happens then in terms of that lead?

22 A Once the consumer has indicated their consent  
23 which they have to do by selecting a particular box,  
24 then they are presented with a, a list of potential



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1 Q Leads.

2 A We only accept leads through our -- we  
3 transmit lead information back to our partners through  
4 our customer lead service and through one other  
5 marketing resource that we make available to our  
6 partners which is a co-branded web page that they can  
7 utilize that has a simple lead input form. That is not  
8 a shared lead. That is information that is transmitted  
9 directly to that service provider.

10 Q Okay. So let's talk about Alliance.Com --  
11 Alliance.Com -- I'm going to call them that -- Alliance  
12 Security for a minute. Do you have an understanding as  
13 to with regard to the subscribers that they deliver to  
14 Alarm.Com where they obtained the information, I'll call  
15 it lead information, but the information about those  
16 subscribers to then market Alarm.Com's product to them?

17 A Outside of the leads that they received  
18 directly through the customer lead service from  
19 Alarm.Com, I don't have specific information where they  
20 are obtaining leads.

21 Q Are there any limitations on the method by  
22 which service providers can obtain leads outside of the  
23 CLS?

24 A We don't control or direct our service



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1 providers' marketing activities or sales activities.

2 Q So the answer's no, there are no limitations  
3 on that?

4 A (No verbal response.)

5 Q And I know I'm bouncing around a little bit,  
6 but it seems like it sort of makes some sense.

7 A One point of clarification.

8 Q Yeah.

9 A As part of our service provider agreement we  
10 do ask, require that our service providers comply with  
11 all applicable laws and regulations. So to the extent  
12 that they need to do that, that is part of our service  
13 provider agreement.

14 Q Okay. What, if anything, does Alarm.Com do to  
15 make sure that the service providers are complying with  
16 that part of the agreement?

17 A We do not put ourselves in the role of direct  
18 compliance there. However, if we were made aware of an  
19 egregious case, that's something that we would  
20 investigate and, if needed, take action on.

21 Q I saw some references to an audit process that  
22 was conducted with regard to a certain number of service  
23 providers. Are you familiar with that process?

24 A I am familiar with our customer lead service

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1 A Yes.

2 Q And what type of information would be in  
3 there?

4 A In our partner marketing folder in one of the  
5 subdirectories there is an Alliance folder; it contains  
6 information specific to how we have helped Alliance  
7 utilize their marketing development funds over the last  
8 few years, specific orders that we've helped with,  
9 images of co-branding that have been utilized for those  
10 purposes.

11 Q Would correspondence to and from Alliance be  
12 in a folder like that?

13 A No.

14 Q Would the agreement or any iterations of the  
15 agreement with Alliance be in a folder like that?

16 A No.

17 Q Because that's a marketing folder; right?

18 A Correct.

19 Q Are you aware of other Alliance folders  
20 outside the marketing department that might contain  
21 different information?

22 A I'm not aware of those.

23 Q All right. Do you know whether it's possible  
24 to pull up a full directory of all of those folders to

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1           A     Once someone is a subscriber Alarm.Com will  
2     have interaction with the consumer. We don't control or  
3     manage in any way how our service provider might also  
4     engage with that consumer.

5           Q     Does Alarm.Com -- this is going to seem like  
6     an obvious question -- but does Alarm.Com always know  
7     which service provider signed up the subscriber?

8           A     Yes.

9           Q     Okay. And how does Alarm.Com become aware of  
10    a service provider signing up a subscriber?

11          A     A service provider would in all cases sign up  
12    a new subscriber through our service provider portal.  
13    Log-ins are done at the service provider level so we  
14    would always know which log-in associated with which  
15    service provider was creating a new subscriber account.

16          Q     Had that log-in process and that use of the  
17    portal been the case since you've been with the company?

18          A     Yes.

19          Q     All right. So if one wanted to pull a list of  
20    all of the subscribers that have been generated say by  
21    Alliance, one could do that?

22          A     With appropriate permissions, yes.

23          Q     And that information is within the data  
24    warehouse?



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1     Graziano and Angeline Roda, all of whom have had  
2     responsibility for performing those audits in the past.

3             Q     And when did Alarm.Com start utilizing CLS  
4     audits?

5             A     To the best of my knowledge in early 2014.

6             Q     And so with regard to Alliance, what did you  
7     learn about the frequency of CLS audits?

8             A     They were audited quite frequently as one of  
9     the larger recipients of leads.

10            Q     Do you have a recollection of how many times  
11    they've been audited?

12            A     Ever since the implementation of the audits,  
13    over 20 times.

14            Q     And did you review the reports that were  
15    generated as a result of the audits of Alliance?

16            A     I did review some.

17            Q     Okay. Can you tell me anything you recall  
18    about those audit reports?

19            A     Some of those audit reports were, were fine in  
20    that they adhered to what we were looking for in terms  
21    of representing the relationship with Alarm.Com  
22    appropriately and utilizing appropriate base handling  
23    tactics. In some cases they did not.

24            Q     And tell me any, any issues or problems that

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1 you saw in those audit reports of Alliance.

2 A Specifically in some cases making more calls  
3 than we would recommend.

4 Q So over-calling? Is that what you guys call  
5 that?

6 A Yes.

7 Q Okay. Anything else?

8 A Over-calling and utilizing an automated  
9 service for calls.

10 Q What do you mean an automated service?

11 A A -- not knowing their specific service, I can  
12 tell you how I would define it. That would be an  
13 automated system leaving some sort of mechanized  
14 voicemail type of response.

15 Q So prerecorded message?

16 A Mm-hmm.

17 Q You said they were audited over 20 times. Do  
18 you have a recollection of in how many of those audits  
19 was there a concern about a prerecorded message?

20 A I don't recall exactly how many.

21 Q Was it more than one?

22 A Yes.

23 Q Was it more than five?

24 A Not to my knowledge or recollection.

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1 Q And do you have a recollection of what the  
2 most recent date was where there was an audit of  
3 Alliance where there was a concern about a prerecorded  
4 message?

5 A Within -- not -- specifically not related to a  
6 prerecorded message but with regard to over-calling.

7 Q What was the most recent audit that you can  
8 recall where there was a concern about a prerecorded  
9 message by Alliance?

10 A Within the last year.

11 Q Okay. And so what, if anything, was done to  
12 follow up on this audit of Alliance that show that there  
13 was the use of a prerecorded message within the last  
14 year?

15 MR. JACOBVITZ: Objection. Form.

16 A As with other cases where we have some sort of  
17 concern about how the lead is handled, we would reach  
18 out directly to the service provider, to our marketing  
19 contact with our service provider, discuss the concern  
20 and encourage different tactics.

21 Q And is that what happened with regard to this  
22 audit report?

23 A Yes.

24 Q And were you involved in that?



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1 A I have not.

2 Q Have Alliance Security employees ever visited  
3 the Alarm.Com offices?

4 A They have.

5 Q Where are the partner summits held?

6 A They're -- the last several ones have been  
7 held here in Washington, DC.

8 Q Tell me about the circumstances under which  
9 Alliance Security employees would visit the Alarm.Com  
10 offices.

11 A It could be a number of different scenarios.  
12 Examples could include where we might want to talk about  
13 marketing resources, where we might be providing  
14 installation training for their technicians or  
15 installers, and then executive level meetings.

16 Q And when you say marketing resources, what do  
17 you include within that description?

18 A Co-branded content that's available for our  
19 service providers to take advantage of. That would  
20 include video content, printed collateral, website  
21 content.

22 Q When Alarm.Com does co-branding activities  
23 with, with its service providers, is the Alarm.Com logo  
24 on that material?

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1 A We typically utilize the Powered by Alarm.Com  
2 logo on that.

3 Q And tell me about that. What's the difference  
4 between the Alarm.Com and the Powered by Alarm.Com logo?

5 A With most of the co-branding that we do the  
6 service provider's logo is going to be the more  
7 prominent one, and then the services that are in fact  
8 powered by Alarm.Com are referenced as being powered by  
9 Alarm.Com, so we typically utilize that logo on  
10 co-branded content.

11 Q When was the Powered by Alarm.Com logo  
12 developed, if you know?

13 A I do. To the best of my recollection, 2013 is  
14 when we started using that.

15 Q And so prior to that was just the simple  
16 Alarm.Com logo used?

17 A Yes.

18 Q Does Alarm.Com encourage its service providers  
19 to put their logos on the website?

20 A Which logos on which website?

21 Q Does Alarm.Com encourage the service providers  
22 to put their, in other words, the service provider's  
23 logos on Alarm.Com's website?

24 A The service provider does not have control

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1 over the content on the Alarm.Com website. We do show  
2 the names of our contracted service providers on our  
3 website for consumers to be able to potentially search  
4 for a service provider in their area or to validate that  
5 a service provider offers Alarm.Com services.

6 Q Does Alarm.Com encourage the service providers  
7 to put Alarm.Com's logo on the service providers'  
8 websites?

9 A Yes.

10 Q And which, which logo do the service providers  
11 tend to use?

12 A Either Alarm.Com, our corporate logo or the  
13 Powered by Alarm.Com logo.

14 Q If a consumer has one of Alarm.Com's service  
15 providers visit them to discuss an installation and  
16 provide a contract, whose name is on that contract and  
17 whose logo, which company?

18 A I cannot speak to all instances, but the  
19 consumer would be contracting with the service provider.  
20 I can't speak to logos that might be included on those  
21 agreements.

22 Q Who within Alarm.Com would be aware of the  
23 logos that are in the company names that are typically  
24 on the contracts presented by the service provider to



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1 the consumer?

2 A To my knowledge we do not review the contracts  
3 or agreements that the service provider provides to the  
4 end user.

5 Q Are the service providers supposed to have the  
6 Alarm.Com logo or name on the contracts that they  
7 present to consumers?

8 A To my knowledge that's not a requirement that  
9 we, that we make at all.

10 Q Are they allowed to have Alarm.Com's name or  
11 logo on the contracts presented to the consumers?

12 A If it is a representation of services being  
13 delivered that are powered by Alarm.Com but not that  
14 they, not that the end subscriber is contracting  
15 directly with Alarm.Com.

16 Q Have you ever seen a contract where  
17 Alarm.Com's logo is the only one on the contract?

18 A I have not seen an end subscriber contract  
19 where that's the case.

20 Q Go ahead and take a look at Exhibit 1, please,  
21 and if you would turn to page 11. Do you see topic 9  
22 under the heading telemarketing?

23 A I do.

24 Q I'm just going to read it just so it's in the

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1 record. It's not that I don't think you can read.  
2 "Alarm.Com's knowledge of and participation in all  
3 scripts used for telemarketing purposes including who  
4 drafted the scripts, any revisions to the scripts and  
5 any training provided regarding using the scripts to  
6 make such calls." Do you understand that you were  
7 designated to testify on behalf of the company for that  
8 topic?

9 A I do.

10 Q What did you do to prepare to testify today  
11 about that topic?

12 A I reviewed information that we have regarding  
13 that topic.

14 Q What information did you review?

15 A I specifically reviewed a dealer resource  
16 guide that we have which contains recommended scripts  
17 for phone conversations that a service provider might  
18 have with a prospective interested consumer.

19 Q And so those scripts would be used during the  
20 course of a telemarketing call; right?

21 MR. JACOBVITZ: Objection. Form.

22 Q Or could be used?

23 A They could be used in, in a phone  
24 conversation.

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1 Q Okay. And would you agree with me that a  
2 phone call that is placed to sell goods or services like  
3 alarm services is a telemarketing call?

4 A It could be categorized as such.

5 Q Okay. All right. And so you would agree that  
6 the scripts that are provided by Alarm.Com to its  
7 service providers in the dealer resource guide, those  
8 could be used for telemarketing calls; right?

9 A They could be.

10 Q Okay. And so I also saw the scripts in the  
11 dealer resource guide, and we'll look at some of those a  
12 little bit later if we think we need to, but did you  
13 look at any other sources of scripts other than the  
14 dealer resource guide?

15 A We also had some information that is very  
16 specific to CLS noted under our CLS lead handling  
17 guidelines and CLS best practices as relates to  
18 contacting prospective individuals.

19 Q Any other sources of scripts that you located?

20 A No.

21 Q And who was responsible for drafting those  
22 scripts?

23 A -- members of our sales organization drafted  
24 those. I reviewed those.



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1 Q And when did Alarm.Com first start providing  
2 scripts to its service providers for the use in their  
3 telemarketing activities?

4 A To the best of my recollection, 2012, and  
5 these were not specific to telemarketing.

6 Q And have those scripts been materially revised  
7 over the years?

8 A No.

9 Q Does Alarm.Com provide any training to its  
10 service providers about how to use the scripts?

11 A Which scripts?

12 Q The telemarketing scripts.

13 A No.

14 Q And so let's talk about that a little bit.  
15 Let's go ahead and talk about the partner summit. How  
16 long has Alarm.Com held partner summits?

17 A This was our fifth annual partner summit.

18 Q All right. And how long does the summit last?

19 A It's two and a half days.

20 Q Okay. And are the partners required to attend  
21 the summit?

22 A No.

23 Q Do most of the partners attend the summit?

24 A We only invite members of our premier partner

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1 program. We do have a capacity limit. So it's  
2 essentially a first come first serve.

3 Q And so what is the, how many, how many service  
4 providers are allowed to come? What's your capacity for  
5 service providers at the partner summit?

6 A 270 individuals.

7 Q Okay. Has Alliance Security attended the  
8 partner summit?

9 A They have.

10 Q Do you know for how many consecutive years or  
11 how many times?

12 A I believe four years.

13 Q So four out of five years?

14 A Correct.

15 Q Did they attend this last year?

16 A They did. Do you mean 2016, yes.

17 Q 2016. Do you know which year they didn't  
18 attend?

19 A I -- to the best of my recollection they have  
20 attended the past four years. Not always the same  
21 individuals.

22 Q And at the partner summit, what if anything,  
23 does Alarm.Com present to its partners about marketing  
24 activities generally?

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1           A     We do talk about marketing activities. We  
2     talk about marketing resources. We talk about  
3     co-branded collateral content that is available to them  
4     and where they can find that information. We discuss  
5     our mobile sales app that is available to our partners.  
6     We discuss the co-branded web page that is available to  
7     our partners and all of the other resources that I would  
8     generally classify as co-branded content that are  
9     available through our portal, through our service  
10    provider portal.

11          Q     Let's talk about the co-branded web page for a  
12    minute. Where is that posted?

13          A     On Alarm.Com.

14          Q     And who has access to the co-branded web page?  
15    Is that something that's available to consumers?

16          A     It is a marketing resource that Alarm.Com  
17    makes available to our service providers. Once that URL  
18    is generated it's up to the service provider as to where  
19    and how they choose to use it.

20          Q     So they can provide it to consumers if they  
21    want or put it on their own web page, whatever?

22          A     Correct.

23          Q     And -- all right. At the partner summit are  
24    there any sessions or materials or discussions about



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1 TCPA compliance?

2 A No.

3 Q Are there any sessions, discussions, materials  
4 about any other legal restrictions or limitations on  
5 telemarketing activity?

6 A No.

7 Q Has Alarm.Com ever discussed whether, whether  
8 it should provide some information to its service  
9 providers about how to comply with the TCPA?

10 MR. JACOBOWITZ: Outside of any  
11 communication with attorneys.

12 A We don't engage in telemarketing. We're not  
13 experts in telemarketing. We can't consult on  
14 telemarketing.

15 Q So my question was different. It was -- I  
16 understand that that is Alarm.Com's position. The  
17 question is whether outside the presence of legal  
18 counsel you've ever been aware of any discussions about  
19 whether TCPA compliance issues should be addressed with  
20 the service providers at the partner summit or  
21 otherwise?

22 A Not in conversation that I've had.

23 Q Are the CLS audits -- have they ever been  
24 addressed at the partner summits?

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1 A Not broadly, no.

2 Q Now, if you say "broadly," then I have to ask  
3 what do you mean? At all have they ever been discussed  
4 at the partner summit?

5 A Not in any public forum at the partner summit.  
6 I can't speak to individual conversations that might  
7 have happened in that environment.

8 Q Fair enough. How, if at all, are the service  
9 providers made aware of the CLS audit process?

10 A When a service provider indicates an interest  
11 in becoming part of the customer lead service, we  
12 require that they attend a webinar. During that webinar  
13 we give them information about how the system, or how  
14 the service rather, works, how they can do things such  
15 as setting up their bidding parameters, how they can  
16 indicate additional information about their company, and  
17 as part of that we do let them know that there is an  
18 audit process.

19 Q Is there a name of that webinar?

20 A CLS webinar.

21 Q Is that it? Good. Even I can find that. And  
22 let's talk about the lead bidding process a little bit.  
23 Can you just describe -- well, first of all, when did  
24 Alarm.Com start having a bidding process for leads?



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1 A It has always been part of the CLS service.

2 Q Okay. So, and that was 2000 --

3 A Late 2012, mid to late 2012, best of my  
4 recollection.

5 Q All right. Describe for me, if you would, the  
6 lead bidding process, and again, in connection with CLS.

7 A So a service provider would log on to our  
8 service provider portal. If it is a provider who has  
9 been approved as part of CLS, as previously mentioned,  
10 they would have to go through the webinar process. They  
11 have to be in good financial standing with us to be  
12 approved. They have the opportunity to set up their  
13 bidding information. So they indicate what minimum bid  
14 they would like to have applied.

15 Q And tell me what that means. What are they  
16 bidding on and how much? What's -- give me an example.

17 A A service provider is bidding to receive leads  
18 that match the criteria that are appropriate for that  
19 service provider. The bidding amount, there is a five  
20 dollar minimum. Beyond that it is entirely up to the  
21 service provider what amount they want to, they want to  
22 bid for a lead.

23 There are caps that they can put in place, for  
24 example, a monthly cap on the amount of money that they



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1 would want to spend, so provide some protection for them  
2 in that regard, and there are some differential bidding  
3 elements as well.

4 Q Are all lead providers allowed to bid on CLS  
5 leads?

6 A Only service providers that are part of the  
7 CLS program can bid on CLS leads.

8 Q Okay.

9 A Or have access to the CLS pages within our  
10 provider portal.

11 Q Okay. You said there are around 6,000 service  
12 providers; is that right?

13 A Mm-hmm.

14 MR. JACOBOWITZ: Yes or no.

15 A Yes.

16 Q Of that 6,000 how many of those participate in  
17 the CLS program?

18 A As of this month, 340.

19 Q All right. And does Alliance Security  
20 participate in the CLS program?

21 A They do.

22 Q Do you know when they first started  
23 participating in the CLS program?

24 A To the best of my recollection, 2013.

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1 Q So when Alliance decided to participate in the  
2 CLS program, what steps did they have to take to become  
3 qualified to participate in it?

4 A They need to represent Alarm.Com on their  
5 website which could be through the use of our logo on  
6 their website. Like any other partner who would be  
7 joining the program, they need to be in good financial  
8 standing with Alarm.Com. They need to attend the  
9 webinar that I previously mentioned, and then they would  
10 need to set up their bidding criteria and basic  
11 information as part of the CLS service. The service  
12 provider has the opportunity at any given time to pause  
13 their participation, and they may pause and unpause at  
14 will.

15 Q Okay. Did there ever come a time when  
16 Alliance paused participation in CLS?

17 A Yes.

18 Q When was that?

19 A I don't have the specific dates, but we can  
20 furnish that.

21 Q And do you have an understanding as to why  
22 they paused their participation in CLS?

23 A Not specific to Alliance. There are a variety  
24 of reasons why someone might.

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1 Q Did you ever become aware that Alliance was  
2 interested in perhaps shifting most or all of its  
3 business to Honeywell?

4 A I have heard that they were in a conversation  
5 with Honeywell.

6 Q Were you involved in any discussions  
7 internally about how to retain Alliance as a service  
8 provider?

9 A Yes.

10 Q Who did you have those conversations with?

11 A Noah Billger, Nate Natale.

12 Q And what time period was that when you were  
13 having these conversations about retaining Alliance and  
14 preventing them from perhaps going to Honeywell?

15 A To the best of my recollection a year to a  
16 year and a half ago.

17 Q And let me just follow up on one thing so I  
18 don't forget. So in connection with becoming qualified  
19 to participate in the CLS program, is there -- does  
20 Alarm.Com do any due diligence on a service provider?  
21 I'll just stop there.

22 A Not beyond what I've already described.

23 Q And so no investigation into whether they've  
24 ever been fined by a regulatory agency?



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1 A No.

2 Q Okay. No investigation as to whether they've  
3 ever been sued for telemarketing violations?

4 A No.

5 Q Any investigation into any compliance issues  
6 whatsoever of a service provider?

7 A Not specifically related to their  
8 participation in CLS, no.

9 Q All right. Let me make sure I understand what  
10 you're saying. Does Alarm.Com ever investigate sort of  
11 the regulatory and legal standing of a service provider?

12 A Not to my knowledge.

13 Q Okay. Does Alarm.Com ever conduct any  
14 criminal background checks of any of its service  
15 providers or its key employees?

16 MR. JACOBVITZ: Objection. Form. When  
17 you say key employees, you're talking about key  
18 employees of the service provider?

19 Q Yes.

20 A Not to my knowledge, no.

21 Q Why did Alarm.Com want to retain Alliance as a  
22 service provider?

23 A They are a strong service provider of ours or  
24 historically had been in terms of putting on a

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1 significant number of subscribers.

2 Q Is there sort of a threshold for that  
3 analysis? Is there a quantitative analysis that was  
4 done in terms of number of subscribers per year or, you  
5 know, historically? How, you know, is there something  
6 quantitative about saying they're a strong service  
7 provider?

8 A Sure. My frame of reference for that would be  
9 our premier partner program. It is a tiered system, and  
10 they -- Alliance Security fell into the top tier of  
11 that.

12 Q Is that the platinum?

13 A Yes.

14 Q All right. And what does it mean to be a  
15 platinum partner?

16 A It means that the service provider is putting  
17 on a minimum of 5200 accounts annually, meaning calendar  
18 year, and that they have at least a 50 percent log-in  
19 rate among the Alarm.Com subscriber base.

20 Q Is that 5200 new accounts annually?

21 A Yes.

22 Q Okay. What does 50 percent log-in rate mean?

23 A Of the Alarm.Com subscribers that any  
24 particular service provider has, at least 50 percent of

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1     them need to have logged on to the Alarm.Com services  
2     period, so either through the customer, our Alarm.Com  
3     customer website or through our app.

4           Q     Let me just make sure I understand that.  If I  
5     have an Alarm.Com system in my house, can I utilize it  
6     without logging in?

7           A     You cannot utilize the Alarm.Com-powered  
8     services --

9           Q     Got it.

10          A     -- without logging in.

11          Q     Why does -- this is going to seem obvious.  
12     Why does Alarm.Com care whether the subscribers log in?

13          A     Attrition rates are significantly lower among  
14     those subscribers who have logged in and utilized the  
15     services.

16          Q     Because they're using the services?

17          A     Yes.

18          Q     They actually remember that it is there?

19          A     Yes.

20          Q     So they pay, okay.

21          A     They don't --

22          Q     They continue to pay.  No, I understand.  I  
23     understand.  Fair enough.

24                 So that's it?  There's just two criteria for



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1 being platinum: Number of accounts per year and 50  
2 percent log-in rate?

3 A And being in good financial standing with  
4 Alarm.Com.

5 Q And being in good financial standing. All  
6 right. Does Alarm.Com ever evaluate whether it's  
7 receiving complaints from consumers when it's looking at  
8 which tier to put a partner in?

9 A That's not part of the decision-making  
10 criteria for tiers.

11 Q What sort of perks does a platinum partner  
12 get? Why would a partner want to be in the platinum  
13 tier other than it sounds good?

14 A All members of the premier partner program  
15 have the opportunity to be engaged with CLS. Again,  
16 membership in premier partner program does not  
17 automatically grant them membership into the CLS  
18 program. They would still have to go through the  
19 aforementioned steps to take part in that.

20 Being in the premier partner program provides  
21 the opportunity for one of our service providers to  
22 apply for marketing development funds. More marketing  
23 development funds are available at successive levels of  
24 the tier. So to specifically answer your question why

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1 would someone be interested in platinum versus gold,  
2 more marketing development funds are available to them.

3 Q Is that the only distinction?

4 A We also invite premier partners to events like  
5 the partner summit. They can have the opportunity to  
6 participate in some cases in product betas that might  
7 not be available to the broader subscriber base.

8 Q Is it typical for Alarm.Com to pay for service  
9 providers' Christmas parties?

10 A There are a number of cases where we provide  
11 monetary donations to service providers for particular  
12 events for some of our larger partners.

13 Q You're aware that Alarm.Com paid for  
14 Alliance's Christmas party?

15 A Yes.

16 Q It was \$10,000; is that right?

17 A That sounds right.

18 Q Can you explain generally to me sort of the  
19 monetary component of the relationship between Alarm.Com  
20 and Alliance? How is Alliance compensated for the  
21 consumers that it generates?

22 A So Alliance pays Alarm.Com per subscriber.  
23 Alliance will have a set rate that they will pay per  
24 subscriber, and that's going to be related to the



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1 Q And maybe I'm just being dense, but I'm trying  
2 to understand. I assume since you're in marketing that  
3 means it would translate into additional revenue. How  
4 does Alliance, Alliance's reputation or influence on  
5 Monitronics translate into additional revenue for  
6 Alarm.Com?

7 A Monitronics is a service provider partner of  
8 ours. Alliance is a service provider partner of ours.  
9 They have a, what we would call subdealer and dealer  
10 program relationship that is entirely between the two of  
11 them. Alarm.Com is not involved with that. We are  
12 always mindful of our dealer program service providers,  
13 and where we also work with some of their larger  
14 subdealer service providers we are mindful of those  
15 relationships and want to make sure that we are helping  
16 to support, to support those service providers as much  
17 as possible so that they can grow their subscriber base.

18 Q Let me make sure that I unpack something that  
19 you said. You said where we also work with the  
20 subdealer. What do you mean by that?

21 A What I would refer to, what Alarm.Com would  
22 refer to as a dealer program, Monitronics is an example  
23 of that, meaning that they purchase accounts from other,  
24 from other service providers. We would refer to those



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1 premier partner program. When looking at that we're not  
2 distinguishing between CLS leads versus other leads. We  
3 are focused on subscribers, not leads. We have no  
4 knowledge of leads outside the CLS system.

5 Q All right. Okay. So I interrupted your  
6 answer. So we know that this part of the proposal was  
7 adopted, auditing the 25 largest dealers every month.  
8 What other parts were adopted?

9 A We do attempt to audit what are defined as key  
10 dealers and problematic dealers.

11 Q What's a problematic dealer?

12 A Dealers who have been previously audited as  
13 part of the process and who were identified as not  
14 following some of our best practices for lead handling.

15 Q Is Alliance a problematic dealer?

16 A At times they were identified as such based on  
17 the results from a monthly audit specific to CLS.

18 Q What other parts of this proposal were  
19 adopted?

20 A We do try to audit new dealers into the CLS.

21 Q Are they automatically audited or how does  
22 that work?

23 A The audits are occurring all internally at  
24 this point. So the individual conducting the audits

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1 covers it? Okay. What about -- what about --

2 A Also under knowledge of --

3 MR. JACOBVITZ: Okay. Was your answer  
4 finished? Or if not, continue.

5 A That's fine.

6 Q Were there any training materials generated in  
7 connection with -- I know it still is being sort of  
8 tested internally, is that right, that dealer audit  
9 score?

10 A It is.

11 Q Okay. Are there any other materials that  
12 describe sort of the criteria and what it means and  
13 would sort of more clearly link the best practices to  
14 the point system?

15 A Not to my knowledge.

16 Q Okay. Where on here, if at all, is the issue  
17 of using an automated dialer?

18 A It would be covered under two areas under call  
19 volume. So if the automated dialer were delivering more  
20 than ten total calls, that would be captured under the  
21 call volume note.

22 If there were an automated dialer that were,  
23 that was not leaving voicemails consistent with the  
24 points that you see under voicemail quality, would be

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1 captured, could be captured there as well.

2 Q What about the use of a prerecorded message,  
3 where is that captured on the dealer audit score?

4 A It is not specifically captured under the  
5 dealer audit score.

6 Q Okay. But you agree it's one of four problem  
7 areas that are supposed to be addressed by the audit;  
8 right?

9 A Yes.

10 Q Is there a similar audit process for the use  
11 of e-mail to promote Alarm.Com's services by service  
12 providers?

13 A We do not audit outside of the CLS program.

14 Q Well, let me make sure I understand your  
15 answer. Service providers are encouraged to both e-mail  
16 and call leads who have been given to service providers  
17 through the CLS program; right?

18 A Yes.

19 Q Okay. So my question is, is there an audit  
20 process that is directed at the use of e-mail to contact  
21 those consumers whose leads are generated through the  
22 CLS program?

23 A Yes. It is included as part of this audit  
24 process. When we are looking at, if you look at initial



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1           A     That it was around some aggressive sales  
2     tactics.

3           Q     Any specifics about those sales tactics?

4           A     Nothing specifically that I'm recalling.

5           Q     Take a look at Exhibit 11.

6           A     Thank you.

7           Q     I only have one. I don't know why. Have you  
8     seen that e-mail before?

9           A     I have not.

10          Q     So Exhibit 11 is Bates stamped 1252. It's  
11     dated --

12          A     I'm sorry. Could you give me just a minute?

13          Q     Oh, I'm sorry. I thought you were done.

14          A     Okay.

15          Q     So it's Bates stamped 1252. It's dated May  
16     1st, 2012. It's from Nate Natale to Steve Trundle,  
17     Martin Hebert and Noah Billger, and it's about VMS/Today  
18     Show, and you see Mr. Trundle's e-mail. So Mr. Natale  
19     is forwarding the clip from The Today Show, and the name  
20     of it is NBC Today Show, Telemarketers Ignoring Do Not  
21     Call List, it's forwarding that to Mr. Hebert -- is it  
22     Hebert? How do you say it?

23          A     Hebert.

24          Q     Hebert? I figured I was saying it wrong --

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1 Billger and Trundle, and Mr. Trundle, again, he's the  
2 CEO; is that right?

3 A Correct.

4 Q And the president? Yeah. So he saw the clip,  
5 and he said, That's not good. I tend not to trust the  
6 mass market news media other than the Wall Street  
7 Journal too much because I have seen the reporting  
8 consistently be biased and sometimes slanderous. The  
9 ostentatious yellow Ferrari makes the story too juicy  
10 for the news to pass up. If their primary tactic is  
11 cold calling random numbers and they are filtering out  
12 all DNC list people, then they should be fine with it,  
13 just you and the law, but the chances are that they are  
14 not getting very many highly educated and informed  
15 consumers. That is the general problem we have because  
16 I think the door-knockers are also generally not getting  
17 the highly educated and informed consumers. With the  
18 marketing that we are doing behind CLS we are hoping to  
19 find those high-end consumers and drive them through our  
20 dealer channel. To be successful we have to have a  
21 bunch of dealers like SyngID and CPI ready to take the  
22 lead and succeeding with the program.

23 So this is 2012, and as I recall, VMS, now  
24 Alliance; right?

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1 A Correct.

2 Q They sort of applied to be part of the CLS  
3 program in you thought 2013?

4 A To my recollection.

5 Q Was there any discussion of the issues that  
6 were raised in The Today Show segment as Alarm.Com was  
7 discussing whether or not to bring Alliance into the CLS  
8 program?

9 A Not that I was a part of.

10 Q When this become -- when this issue, this  
11 Today Show segment became known to Alarm.Com back in May  
12 of 2012, was there any discussion of trying to ensure  
13 that any telemarketing activity that Alliance was doing  
14 trying to sell Alarm.Com products and services would  
15 comply with the law?

16 A As you can see in the statement made by Steve,  
17 that was definitely something of concern.

18 Q Yeah. What steps were taken to address that  
19 concern?

20 MR. JACOBVITZ: Objection. Form.

21 Q Let me -- let me clear that one up. What  
22 steps did Alarm.Com take to address the concerns about  
23 Alliance not complying with the TCPA when it became  
24 aware of it in May of 2012?



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1 MR. JACOBVITZ: Objection. Form.

2 A We were made of some allegations -- we were  
3 made aware of some allegations here. As you can see  
4 through this e-mail chain, Nate spoke with Jay Gotra,  
5 also spoke with another service provider partner who  
6 worked with Alliance to try and get a better handle of  
7 the situation and understand specifically what was, what  
8 was happening.

9 Q Mm-hmm.

10 A So it was something that, that generated some  
11 concern and it was followed up on.

12 Q All right. And they did that in or around May  
13 of 2012; right?

14 A It would appear to be so.

15 Q Right? I mean they took it seriously; right?

16 A It certainly appears that way.

17 Q So I'm curious though. What concrete steps  
18 were taken to ensure that Alliance was no longer going  
19 to violate the law?

20 MR. JACOBVITZ: Objection. Asked and  
21 answered. She just answered the question. Do you have  
22 anything further to add? Go ahead.

23 A We do not actively monitor or control the  
24 sales and marketing practices of our service providers.

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1 Q So I asked you earlier when you had, when  
2 Alarm.Com had become aware that Alliance had faced some  
3 allegations of illegal telemarketing, and I think your  
4 answer was sometime in the last year.

5 A I specifically referenced the complaint,  
6 specific to this particular complaint.

7 Q Right. So Alarm.Com has known about  
8 allegations against Alliance for illegal telemarketing  
9 since at least May of 2012; right?

10 A We have been aware of some allegations that  
11 were made.

12 Q Has there ever been a discussion at Alarm.Com  
13 about perhaps terminating the relationship with Alliance  
14 because it seems to be incapable of complying with the  
15 law?

16 A No.

17 MR. JACOBVITZ: Objection. Form.

18 A Not to my knowledge.

19 Q You were in charge of investigating the  
20 specific complaints of the plaintiffs in this case, all  
21 of which involve telemarketing practices by Alliance;  
22 correct?

23 A I was involved with it, yes.

24 Q As a result of learning that in fact Alliance

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1 had not changed its practices and was continuing to  
2 engage in illegal telemarketing, what steps did  
3 Alarm.Com take to prevent that illegal conduct in the  
4 future?

5 MR. JACOBOWITZ: Objection. Form. Lacks  
6 foundation. If you can answer.

7 A Alarm.Com does not control the marketing or  
8 sales tactics of our partners.

9 Q What steps, if any, has Alarm.Com taken to  
10 enforce the contractual obligation that Alliance has to  
11 comply with all rules and regulations governing  
12 telemarketing now that it knows that Alliance does not  
13 comply with those laws and regulations?

14 MR. JACOBOWITZ: Objection. Form. Asked  
15 and answered. You can answer, if you can.

16 A Alarm.Com does not control the marketing and  
17 sales practices of service providers. If allegations  
18 are made, we will listen to those certainly and pay  
19 attention to those, but we are not responsible for law  
20 enforcement.

21 Q So my question was a little different.  
22 There's actually a contractual obligation that Alliance  
23 allegedly owes to Alarm.Com to comply with the law.  
24 What steps, if any, has Alliance taken to enforce that



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1 contractual obligation against Alliance?

2 MR. JACOBVITZ: Objection. Form.

3 Objection. Asked and answered. You may answer.

4 A You asked what -- you asked what Alliance,  
5 what steps Alliance has taken against Alliance. I  
6 assume you meant Alarm.Com --

7 Q I did.

8 A -- has taken against Alliance. To my  
9 knowledge we have not taken any active measures against  
10 Alliance.

11 Q Why not?

12 A I am not responsible for the overall account.  
13 I think there is someone else who would be better able  
14 to answer that.

15 Q Is Alarm.Com aware of any other service  
16 providers that are engaging in illegal telemarketing  
17 activities?

18 MR. JACOBVITZ: Objection. I'm  
19 instructing you not to answer. It's the same question  
20 as before, based on relevance. Why is this relevant to  
21 this lawsuit?

22 MS. TERRELL: So under the TCPA there are  
23 two levels of damages available. One is \$500. One is  
24 \$1500, and the conduct that a company engages in when it

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CERTIFICATE OF SHORTHAND REPORTER

I, Janet A. Hamilton, Registered Diplomate Reporter and Notary Public before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my direction; that review was not requested; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of November, 2016.

*Jan Hamilton*

Registered Diplomate Reporter

My commission expires

March 14, 2018.